IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 25202 of 2002

Between:

The Managing Director Sri Kankyaka Hotel Enterprises
Pvt., Ltd., Becker Compound, Brodipet Main road, Guntur

... PETITIONER

AND

1 The Vice Chairman & Managing Director, Andhra Pradesh Industrial Development Corporation Ltd., Parishram Bhavan, 5-9-58/B, Fathe Maidhan Road, P.O. Box No. 25, Hyderabad-4
2 The Managing Director, Andhra Pradesh State Finance Corporation, Chirag Ali Lane, Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction declaring the action of the 1st respondent in seizing the assets of the petitioner and the notification dated 14-11-2002 published in Eenadu Newspaper calling for tenders for the sale oft he assets of the petitioner as arbitrary, illegal, and violative of the fundamental Rights guaranteed under the constitution of India

Counsel for the Petitioner: MR.SRINIVASA REDDY TETALA

Counsel for the Respondent No.1: MR. P.V. RAVINDRA KUMAR

Counsel for the Respondent No.2: MS.Y.N.LOHITA

The Court made the following order:

ORDER:

Petitioner seeks a writ of mandamus declaring the action of the respondents in seizing the assets of the petitioner and in issuing a notification dated 14.11.2002 calling for tenders for the sale of the assets of the petitioner. Petitioner states that he is the Managing Director of Sri Kanyaka Hotel Enterprises Private Limited, Becker Compound, Brodipet, Guntur.

First respondent-Andhra Pradesh Industrial Development Corporation Limited disproves the same and states that the
petitioner-company was represented by Sri P.V. Srinivasa Rao,
Sri A. Prasad and Smt. S. Rajyalakshmi alone; in view of the same the writ petition is not maintainable.

Second respondent-Andhra Pradesh State Finance Corporation sanctioned a term loan of Rs.60.00 lakhs on 12.02.1988 to enable the petitioner to construct a hotel in Guntur. The said loan rank
pari-passu with the term loan of Rs.78,30,000/- (Rs.78.30 lakhs) sanctioned by the first respondent.

Learned counsel for the petitioner-company submits that both the respondents put together sanctioned a total loan of Rs.156.80 lakhs. Out of the total sanctioned amount of Rs.156.80 lakhs the respondent disbursed only Rs.132.00 lakhs leaving a balance of Rs.25 lakhs.

Even out the total amount of Rs.132.00 lakhs the respondents actually released only Rs.89 lakhs deducting Rs.43 lakhs towards interest at the time of disbursement itself. The petitioner-company opted for one time settlement scheme to pay the total amount of Rs.80,28,904/- as per the letters of the respondents dated 16.11.2000 and 29.12.2000 and out of the said amount a sum of Rs.28,10,117/- was to be paid by the petitioner-company within 30 days and the balance amount was to be paid in 6 equal monthly installments. Admittedly, petitioner-company has not adhered to the terms and conditions of one time settlement scheme. Therefore, the one time settlement scheme was cancelled and the amount advanced to the petitioner-company was sought to be received by calling for tenders for the sale of the assets of the petitioner-company.

Learned counsel appearing for the second respondent submits that out of the sanctioned amount a sum of Rs.131.07 lakhs was released as per the eligibility of the petitioner-company. Petitioner-company submitted proposals to settle the loan under One Time Settlement Scheme in a sum of Rs.62.00 lakhs. But the
petitioner-company has not paid any amount of Rs.31.00 lakhs as stated by it and falsely claims that it has paid the said amount. Petitioner-company had made a down payment of Rs.8.60 lakhs and issued cheque for Rs.22.40 lakhs towards OTS amount, which was dishonoured upon presentation.

Learned counsel appearing for the first respondent submits that the proposal of one time settlement made by the petitioner-company was accepted and as against the total dues of Rs.344.88 lakhs as on 30.10.2000 the OTS proposal for payment of Rs.80.28 lakhs was approved. But the petitioner-company has not adhered to its own offer and the cheques issued by it were dishonoured. As the petitioner-company failed to honour its commitment as per the sanction letter dated 16.11.2000, one time settlement was duly cancelled and action under Section 29 of the State Finance Corporation Act (for short 'the Act') has been initiated. Pursuant to the sale notification a Tender Opening/Negotiations Meeting was held on 20.12.2000 and the Corporation received an offer of Rs.183.00 lakhs for purchase of the assets of the petitioner-company.

Admittedly, the petitioner-company failed to honour its commitment and also it has not challenged the order for initiation of action under Section 29 of the Act. Petitioner-company

only questions the notification issued by the respondents in calling the tenders for the sale of the assets of the petitioner. But the

petitioner-company cannot question the said sale notification without questioning the earlier action of the respondents in initiating proceedings under Section 29 of the Act. Therefore, I am of the opinion that there is no statutory violation committed by the respondents entitling the petitioner-company for any relief.

The writ petition is devoid of merits and accordingly it is dismissed. However, it is always open for the petitioner-company to approach the respondents again and give a proposal for one time settlement for payment of the money. If the petitioner-company so approaches, it is for the respondents to consider the same. No costs.

_____

V. ESWARAIAH, J

March 15, 2005

Dsk

To

1 The Vice Chairman & Managing Director, Andhra Pradesh Industrial Development Corporation Ltd., Parishram Bhavan, 5-9-58/B, Fathe Maidhan

Road, P.O. Box No. 25, Hyderabad-4

2 The Managing Director, Andhra Pradesh State Finance, Corporation, Chirag

Ali Lane, Hyderabad

3 Two CD Copies.